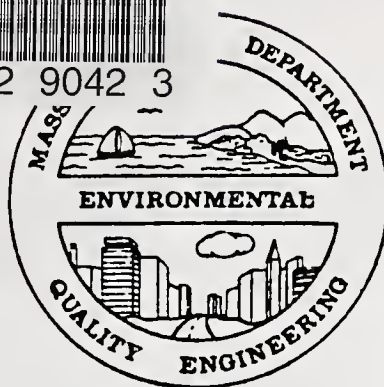


MASS. EA 20.2: H 33/DRAFT/984-AUG



The Commonwealth of Massachusetts  
Executive Office of Environmental Affairs  
Department of Environmental Quality Engineering  
Division of Hazardous Waste  
Division of Water Pollution Control

## Hazardous Waste Management Regulations for Massachusetts

Public Hearing Draft

Amendments and Additions to Regulations

August 1984

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The Commonwealth of Massachusetts  
Department of Environmental Quality Engineering  
Notice

Notice is hereby given that the Department of Environmental Quality Engineering, acting in accordance with the provisions of G.L. c. 21C, ss. 4 and 6 and G.L. c. 111, ss. 142A-142D, will hold six (6) public hearings. The hearings will accomplish two purposes:

First, The hearings will provide opportunity for comment on the proposal to make permanent emergency regulations which were promulgated by the Department on June 22, and 28, 1984 and published in the Massachusetts Register on July 6, 1984. These emergency regulations amended several provisions of, and added several provisions to, 310 CMR 30.000 and 7.08(4). These provisions govern the generation, transportation, storage, treatment, disposal and recycling of hazardous waste.

Second, the hearings will provide opportunity for comment on other proposed amendments and additions to 310 CMR 30.000 and 7.08(4).

At the same time, the Department's Division of Water Pollution Control is proposing to amend its regulations at 314 CMR 2.00, 3.00, 5.00 and 8.00 to incorporate by reference all pertinent provisions of the amendments to 310 CMR 30.000 and 7.00 which have been or are proposed to be promulgated by the Department through September 1984. In amending its regulations, the Division is acting pursuant to G.L. c. 21, ss. 27(12) and 43.

Copies of the emergency regulations, and the proposed new regulations, are available for inspection at each Regional Planning Agency and each DEQE regional office. Copies may be obtained, free of charge, at the DEQE Boston office, One Winter Street. The public hearings will be held as follows:


Sept. 5 10AM	BOSTON D.E.Q.E. One Winter St. 10 Fl. Conf. Rm.	Sept. 5 7PM	LAKEVILLE Lakeville State Hosp. Rte. 105, Main St. 1st Fl. Conf. Rm.
Sept. 6 1PM	HOLYOKE Holyoke Comm. Coll. Campus Center Rm. G-301	Sept. 6 7PM	PITTSFIELD City Hall 66 Allen St. City Council Hrg. Rm.
Sept. 10 1PM	HAVERHILL No. Essex Comm. Coll. Library Pres. Conf. Rm.	Sept. 10 7PM	WORCESTER U. Mass. Med. Ctr. Administrative Corridor Meeting Room A

Testimony may be presented orally and/or in writing at the public hearings. Testimony on the emergency regulations may be submitted in writing no later than September 14. Testimony on all other proposed regulatory amendments and additions may be submitted in writing no later than September 22. Written comments shall be addressed to: Dr. Karl Eklund, Regulatory Task Force, Division of Hazardous Waste, One Winter St., 5th Floor, Boston, MA 02108.

By Order of the Department

Anthony D. Cortese, ScD, Commissioner

Thomas C. McMahon, Director  
Division of Water Pollution Control



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## I. Explanation of Amendments to Regulations

### A. Overview

The storage, treatment and disposal of hazardous waste is governed by both Federal and State legislation, and is regulated by the U.S. Environmental Protection Agency as well as the Department of Environmental Quality Engineering of the Commonwealth of Massachusetts. This duality of authority and responsibility has the potential for causing inconvenience and expense to regulated industry without benefiting public health, safety and welfare and the environment.

To prevent dual regulation and maximize protection of the environment, Congress empowered the EPA to authorize States to operate their own hazardous waste programs in lieu of the Federal program. In addition to Final Authorization, States were allowed and encouraged to obtain Interim Authorization. Massachusetts will soon have full Interim Authorization. On July 2, 1984, Massachusetts formally applied for Final Authorization.

To qualify for Interim Authorization, a State only had to show that its program was "substantially equivalent" to the Federal program. To qualify for Final Authorization, the State must show that its program is "equivalent to and consistent with" the Federal program. In order for States to meet this more stringent standard, EPA requires that, in every particular, State regulations must be at least as stringent as Federal regulations.

After reviewing DEQE's regulations several times, EPA determined that some State regulations are less stringent than the corresponding Federal regulations. To remedy this, the State regulations are being amended. Because EPA wanted the amendments to be in effect when the formal application for Final Authorization was filed, and because EPA's comments were received too close to the submission of the application to permit full public discussion, the amendments were adopted as emergency regulations. This permits them to be in effect during a 90-day period during which they may receive public discussion.

In addition to these amendments necessary for Final Authorization, certain other amendments that would have been submitted to the public at this time in any case are being included in this hearing process.

All amendments are discussed below.

### B. Emergency amendments to 310 CMR 30.000 Necessary for Final Authorization.

1 and 2. These specify requirements that must be met so that samples collected for analysis may be shipped without being subject to the full range of hazardous waste regulations. These amendments, including a technical amendment, make 310 CMR 30.104(14) at least as stringent as 40 CFR §261.4(d)(2).

3. This makes 310 CMR 30.332(1)(a) at least as stringent as 40 CFR §262.41(a)(6) by requiring generator annual reports to include the generator's name and address as well as EPA Identification Number.
4. This makes 310 CMR 30.413(1) at least as stringent as 40 CFR §263.50.
5. This requires written reports of hazardous waste spills in transit as required by 49 CFR §171.16.
6. This adds to the regulation dealing with inspections, 310 CMR 30.515(2)(c), certain specific references to other regulations in order to clarify all the regulations.
7. This is a technical amendment to make clear that references to 310 CMR 30.520 include 310 CMR 30.521 through 30.524.
- 8., 9., and 10. These amendments, including technical conforming amendments, add a specific mention of personnel protection to the requirements of contingency planning in order to make 310 CMR 30.521(10) obviously as stringent as the corresponding Federal regulation, 40 CFR §270.14.
11. To the general requirements of maintaining records, this adds certain specific references to regulations that deal with waste analyses.
12. To the general requirements of 310 CMR 30.585, this adds certain specific requirements at least as stringent as 40 CFR §264.351 for the closure of hazardous waste incinerators.
13. To the general requirements of notice to a potential purchaser of land once used for a hazardous waste facility, this adds a specific requirement of notice of any restriction on use of the land. This makes 310 CMR 30.594(1) more obviously parallel to the corresponding Federal regulation, 40 CFR §264.120.
14. This removes from a list of ground water contaminants a constituent that does not appear in the corresponding Federal list, 40 CFR §264.94. There are circumstances in which this constituent could be interpreted to make the Massachusetts regulations less stringent in effect than the Federal regulation.
15. This amends 310 CMR 30.804 to require additional information in a facility license application, thereby making the regulation at least as stringent as 40 CFR §270.13
16. This amends 310 CMR 30.804(4)(a) to make it equivalent to 40 CFR §270.14(b)(19).

C. Emergency Amendments to 310 CMR 7.00 Necessary for Final Authorization

- 1., 2., 3. These amend 310 CMR 7.08(4)(b), (c), and (d) to make it clear that existing as well as new hazardous waste incinerators must comply with the stated requirements.



that there be continuous or repeated exposure to more than one condition in order for an accident to meet the definition of Accidental occurrence or Nonsudden accidental occurrence, but that it intends only to make it clear that, no matter how many conditions may be involved, there is only one recovery from the insurance policy for each accidental occurrence.

In other cases, the differences between the Department's currently prescribed definitions and those conventionally used by industry involve fundamental differences of intent. It will take time - the Department now estimates approximately 18 months - for the Department to draft regulations which attempt to resolve these differences, hold the required six public hearings, evaluate the comments submitted, and adopt and implement final regulations. In the meantime, the Department must get facilities as much as possible into compliance with financial responsibility regulations.

To give the Department the time it needs to work out these issues while at the same time allowing the Department to enforce 310 CMR 30.900 as much as possible, the Department now proposes to add a new transition regulation, 310 CMR 30.099(13), which would allow the Department to accept instruments in which the terms Accidental occurrence, Bodily injury, Legal defense costs, Nonsudden accidental occurrence, Property damage, and Sudden accidental occurrence are defined differently from the way they are defined in 310 CMR 30.010, subject to three conditions.

First, the instruments must use definitions of these terms which provide the maximum financial assurance available. If coverage required by 310 CMR 30.900 is offered for sale, the Department expects hazardous waste facilities which must obtain that coverage to do so and not settle for less.

Second, all other requirements of 310 CMR 30.900 must be complied with. This includes, without limitation, the wording requirements of 310 CMR 30.908, except where wording absolutely has to be changed in order to accomplish the purpose of this proposed new regulation.

Third, all instruments must meet requirements at least as stringent as those set forth in 40 CFR Part 264, as in effect on July 1, 1984, when the Department filed its formal application for final authorization pursuant to Section 3006(b) of RCRA. On no account will the Department adopt any regulation that will give the EPA lawful cause to deny the Department's application.

4. and 5. These amend 310 CMR 7.08(4)(i) and (j) to require hazardous waste incinerators to undergo analysis of the wastes being fed into them and exhaust emitted from them, and to otherwise have their performance tested, at times and using methods set forth in the regulations.

6. This amends 310 CMR 7.08(4)(l) 3 to require weekly testing of hazardous waste incinerator automatic shut-down systems, and alarm systems associated therewith.

#### D. Other Amendments Necessary for Final Authorization

The Department proposes to amend 310 CMR 30.356, which governs record-keeping requirements for hazardous waste land treatment facilities, to make this regulation equivalent to 40 CFR §§264.73(b)(6) and 264.279.

The Department's Division of Water Pollution Control proposes to amend 314 CMR 2.01, 3.01, 5.01, and 8.01 to make it clear that all references to 310 CMR 7.00 or 30.000 include all amendments published in the Massachusetts Register as a result of these hearings and all prior hearings involving hazardous waste or air pollution regulations.

#### E. Additional Amendments Governing Financial Responsibility

As a result of implementing the currently effective financial responsibility regulations, and as a result of continuing study of those regulations by the Hazardous Waste Advisory Committee, it has become clear to the Department that 310 CMR 30.900 requires facilities to obtain financial responsibility instruments which the insurance industry is not offering for sale. Specifically, the Department, in 310 CMR 30.010 (the definitions section of the Hazardous Waste Regulations), defines the terms Accidental occurrence, Bodily injury, Legal defense costs, Nonsudden accidental occurrence, Property damage, and Sudden accidental occurrence differently from the way the insurance industry defines those terms.

In at least one case, the difference involves only differing interpretations of phrases. The Department currently defines the terms Accidental occurrence and Nonsudden accidental occurrence to include "continuous or repeated exposure to a condition". The standard industry definitions use the plural "conditions" rather than the singular "condition". The Department used the singular "condition" to make it clear that continuous or repeated exposure to only one condition which meets the other requirements in the definitions was sufficient to constitute an "accidental occurrence". The industry uses the plural "conditions" not to require that there be continuous or repeated exposure to more than one condition but to make clear that there is only one recovery from the insurance policy for each accidental occurrence, no matter how many conditions a person may have been exposed to.

The Department now proposes to amend the definitions of Accidental occurrence and Nonsudden accidental occurrence in 310 CMR 30.010 to use the plural "conditions" rather than the singular "a condition". The Department wishes to make it clear that it does not intend to require



1. 310 CMR 30.010 is hereby amended by inserting the following:- USPS means the United States Postal Service.

2. 310 CMR 30.104(14) is hereby amended by striking out said subsection and inserting in place thereof the following subsection:-

(14) Samples collected for the sole purpose of testing to determine their properties, characteristics or composition, provided that the following requirements are complied with:

- (a) The samples are packaged so that they do not leak, spill or vaporize; and
- (b) The samples are shipped in compliance with DOT, USPS, and all other applicable shipping requirements; or
- (c) If DOT, USPS, or other shipping requirements do not apply, the following information accompanies the sample:
  - 1. The sample collector's name, mailing address and telephone number;
  - 2. The laboratory's name, mailing address, and telephone number;
  - 3. The quantity of the sample;
  - 4. The date of shipment; and
  - 5. A description of the sample.

3. 310 CMR 30.332(1)(a) is hereby amended by striking out said division and inserting in place thereof the following division:-

(a) the name, address and EPA identification number of the generator,

4. 310 CMR 30.413(1) is hereby amended by striking out said subsection and inserting in place thereof the following subsection:-

(1) A transporter shall take appropriate immediate action to protect public health, safety and welfare and the environment and shall notify the Department, local authorities, including police and fire departments, and the generator, in the event of a discharge of hazardous waste in transit.

5. 310 CMR 30.413(2)(c) is hereby amended by striking out the words "Give notice, if required by 49 CFR Section 171.15," and inserting in place thereof the words:- Report in writing, as required by 49 CFR Section 171.16,.

6. 310 CMR 30.515(2)(c) is hereby amended by striking out the fourth sentence and inserting in place thereof the following sentence:- At a minimum, inspections shall be in compliance with the requirements set forth or referred to in 310 CMR 7.08(4), 310 CMR 30.099 (6) (i), (j) and (k), 30.614, 30.624, 30.644, 30.686, and 30.696.

7. 310 CMR 30.520 is hereby amended by inserting the following after the title:- 310 CMR 30.521 through 30.524, cited collectively as 310 CMR 30.520, prescribe requirements which apply to owners and operators of all facilities to which the requirements of 310 CMR 30.500 apply.

8. 310 CMR 30.521(10)(e) is hereby amended by striking out, after the semicolon, the word "and".

9. 310 CMR 30.521(10)(f) is hereby amended by striking out the period and inserting in place thereof the following:- ; and.

10. 310 CMR 30.521(10) is hereby further amended by inserting after division (f) the following division:-

(g) Prevent undue exposure of personnel to hazardous waste (e.g., protective clothing).

11. 310 CMR 30.542(2)(c) is hereby amended by striking out said division and inserting in place thereof the following division:-

(c) Records and results of waste analyses required by 310 CMR 7.08(4)(c)5c, 30.513, or 30.560.

12. 310 CMR 30.585 is hereby amended by inserting at the end thereof the following sentence:- At closure of a hazardous waste incinerator, the owner or operator shall remove from the incinerator site all hazardous waste and hazardous waste residues, including, but not limited to, ash, scrubber waters, and scrubber sludges.

13. 310 CMR 30.594(1) is hereby amended by inserting after the first sentence the following sentence:- If the facility is subject to the post-closure requirements of 310 CMR 30.590 through 30.593, such notice shall notify any potential purchaser of the property that the land's use is restricted pursuant to 310 CMR 30.592(5).

14. 310 CMR 30.668 is hereby amended by striking out the last line in Table 30.668 (i.e. the line reading "Total Tri-halo-methanes 0.1").

15. 310 CMR 30.804 is hereby amended by striking out the first sentence of the introductory paragraph and inserting in place thereof the following sentence:- Each facility license application shall state whether the facility is a new facility or an existing facility, whether the application is a first or revised application, and shall include at least the following additional information.

16. 310 CMR 30.804(4)(a) is hereby amended by striking out said division and inserting in place thereof the following division:-



1. 310 CMR 7.08(4)(b) is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:-

No person shall construct, reconstruct, alter, modify, or operate, or cause, suffer, allow or permit the construction, reconstruction, alteration, modification, or operation of, any hazardous waste incinerator unless the plans, specifications, proposed Standard Operating Procedure, and the proposed Maintenance Procedure for such hazardous waste incinerator have been submitted to the Department for approval, and the Department has granted such approval in writing.

2. 310 CMR 7.08(4)(c) is hereby amended by striking out, in the introductory clause, the words "or modify" and inserting in place thereof the words:- modify or operate.

3. - 310 CMR 7.08(4)(d) is hereby amended by striking out, in the introductory clause, the words "or modification" and inserting in place thereof the words:- modification or operation.

4. 310 CMR 7.08(4)(i) is hereby amended by striking out said division and inserting in place thereof the following division:-

(i) For the purposes of demonstrating compliance with the emission limitations contained in 310 CMR 7.08(4)(h), compliance with other requirements of these Regulations, or compliance with the terms of any approval granted pursuant to these Regulations, each person owning, leasing, or controlling the operation of a hazardous waste incinerator shall conduct or have conducted performance tests, including, without limitation, sampling and analysis of waste and exhaust emissions, in accordance with the requirements set forth in these Regulations, including, without limitation, the following requirements:

1. For a newly constructed, substantially reconstructed, or altered incinerator, such performance tests shall be conducted as soon as possible as determined by the Department, but in no case later than 720 hours of operation or 120 calendar days, whichever comes first, after the initial introduction into the incinerator of each waste feed specified in a Department approval.

2. For any hazardous waste incinerator for which the Department is of the opinion that such performance tests are necessary, such performance tests shall be conducted within 90 days of written notification from the Department that such tests are required, or within such other deadline as the Department may specify in said written notification.



30.804: continued

(a) One set shall show a distance of 1000 feet around the facility, shall be at a scale of 2.5 cm. (1 in.) equal to not more than 61.0 meters (200 ft.), unless specified otherwise by 310 CMR 30.804(19)(k)3 or M.G.L. c. 21C, and shall include, but not be limited to:

1. topographic contours sufficient to clearly show the pattern of water flow in the vicinity of and from each operational unit in the facility
2. Map scale and date
3. legal boundaries of the site
4. geology of the site area
5. groundwater locations
6. surface water locations
7. location of residences
8. roads and access control
9. wells
10. 100-year flood elevations, and
11. seismic data, as may be required by the Department.

REGULATORY AUTHORITY

310 CMR 30.00: M.G.L. c. 21C, ss. 4 and 6

310 CMR: DEPARTMENT OF ENVIRONMENTAL QUALITY ENGINEERING

7.08: continued

5. 310 CMR 7.08(4)(j) is hereby amended by striking out the first sentence and inserting in place thereof the following:-

Performance tests in compliance with 310 CMR 7.08(4)(i) shall be conducted in accordance with methods as approved by the Department and in conformance with 310 CMR 7.13. The sampling and analysis of waste shall in all cases be done by a person knowledgeable therein, and shall be done in the presence of a representative of the Department whenever such is deemed necessary by the Department.

6. 310 CMR 7.08(4)(1)3 is hereby amended by striking out the second sentence and inserting in place thereof the following:-

Each such system, and each alarm associated therewith, shall be tested at least weekly to verify operability; and.

REGULATORY AUTHORITY:

310 CMR 7.00: M.G.L. c. 21C, ss. 4 and 6,  
M.G.L. c. 111, ss. 142B and 142D.

310 CMR: DEPARTMENT OF ENVIRONMENTAL QUALITY ENGINEERING

310 CMR 30.656 is hereby amended by striking out said section and inserting in place thereof the following section:

30.656: Record-Keeping.

The owner or operator of a land treatment facility shall include the following in the operating record required by 310 CMR 30.542:

- (1) The application dates, application rates, total quantities, and location of each hazardous waste treated at the facility; and
- (2) A record of all vegetation grown at the site and of the dates, quantities and destination of all vegetation and soil removed from the site; and
- (3) The results of all monitoring done to comply with 310 CMR 30.655, and a record of everything else done to comply with 301 CMR 30.655.



310 CMR: DEPARTMENT OF ENVIRONMENTAL QUALITY ENGINEERING

310 CMR 30.010 is hereby amended by striking out, in the definition of Accidental occurrence, the words "a condition," and inserting in place thereof the word:- conditions,.

310 CMR 30.010 is hereby further amended by striking out, in the definition of Nonsudden accidental occurrence, the words "a condition" and inserting in place thereof the word:- conditions.

310 CMR 30.099 is hereby amended by inserting after subsection (12) the following subsection:-

(13) Until January 31, 1986, the Department may deem owners and operators of facilities subject to 310 CMR 30.900 to be in compliance with 310 CMR 30.900 if they submit instruments in which the terms Accidental occurrence, Bodily injury, Legal defense costs, Nonsudden accidental occurrence, Property damage, and Sudden accidental occurrence are defined differently from the way they are defined in 310 CMR 30.010, provided that, in the opinion of the Department:

- (a) the instruments submitted use definitions of these terms which provide the maximum financial assurance available, and
- (b) all other requirements of 310 CMR 30.900 are complied with, and
- (c) the instruments meet requirements at least as stringent as those set forth in 40 CFR Part 264, as in effect on July 1, 1984.

